

REMARKS

I. Introduction

At the time of the Office Action dated July 25, 2005, claims 1-16 are pending in this application. In this Amendment, claims 1, 4-6, 9-12 and 14-16, and claims 2, 3 and 13 have been canceled, without prejudice. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the amendments of claims 1 and 12 can be found in, for example, Embodiment 1 of the specification, particularly in Table 1 and Fig. 1. Applicant has amended dependency of claims 4-6, 9-11 and 14-16 because of cancellation of claims 2, 3 and 13. In addition, Fig. 8 has been amended to have the legend "Prior Art."

Claims 1, 4-12 and 14-16 are now active in this application.

II. The Rejection of Claims 1-5, 7, 8 and 10-16 under 35 U.S.C. §102(e)

In the statement of the rejection, the Examiner asserted that Gen-Ei et al. discloses a monolithic multi-wavelength semiconductor laser unit identically corresponding to what is claimed. It is noted that the rejection of claims 2, 3 and 13 has been rendered moot by cancellation of those claims.

It is well established precedent that the factual determination of lack of novelty under 35 U.S.C. §102 requires the identical disclosure in a single reference of each element of the claimed invention, such that the identically claimed invention is placed into the possession of one having ordinary skill in the art. *See EMI Group N. Am., Inc. v. Cypress Semiconductor Corp.*, 268 F.3d 1342, 60 USPQ2d 1423 (Fed. Cir. 2001); *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F. 3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994).

In response, Applicant submits that Gen-Ei et al. does not disclose a semiconductor laser device and a method for fabricating a semiconductor laser device including all the limitations respectively recited in independent claims 1 and 12, as amended. Specifically, the claims recite a second cladding layer formed on a first cladding layer, the second cladding layer being doped with a second impurity which is different from a first impurity of the first cladding layer. Furthermore, claims 1 and 12 also recite that the first cladding layer has the same conductivity type as that of the second cladding layer and has a resistivity higher than that of the second cladding layer. Gen-Ei et al., at minimum, does not disclose the above limitations recited in independent claims 1 and 12.

More specifically, Gen-Ei et al. discloses that zinc (Zn) is used as the dopant for first cladding layer 16 and second cladding layer 18. Ge-Ei et al. also states that magnesium (Mg) or carbon (C) may be used as the dopant in lieu of Zn. Importantly, however, Ge-Ei et al. never suggests that the dopant for the first and second cladding layers may be different from one another. Ge-Ei et al. only discloses that the first and second cladding layers may be both Zn, or both Mg. or both carbon. See column 7, lines 33-44 of Gen-Ei et al.

Moreover, Ge-Ei et al. does not disclose or suggest that the first cladding layer has a resistivity higher than that of the second cladding layer.

Based on the foregoing, Gen-Ei et al. does not disclose a semiconductor laser device and a method for fabricating a semiconductor laser device including all the limitations respectively recited in independent claims 1 and 12, as amended, within the meaning of 35 U.S.C. §102. Dependent claims 4, 5, 7, 8, 10, 11, and 14-16 are also patentably distinguishable over Gen-Ei et al. at least because they respectively include all the limitations recited in independent claims 1

and 12. Applicant, therefore, respectfully solicits withdrawal of the rejection of the claims under 35 U.S.C. §102(e) and favorable consideration of the pending claims.

III. The Rejection of Claims 9 and 11 under 35 U.S.C. §103(a)

In the statement of the rejection, the Examiner asserted that it would have been obvious to modify the device of Gen-Ei et al. based on the teachings of Akagi to arrive at the claimed invention.

In response, it is submitted that claims 9 and 11 are patentably distinguishable over the applied combination of the references at least because they include all the limitations recited in independent claim 1. For the reasons set forth above, Gen-Ei et al. does not teach a semiconductor laser device recited in claim 1. Furthermore, Akagi does not teach a semiconductor laser device recited in claim 1, and therefore, does not cure any deficiencies of Gen-Ei et al.

Accordingly, Gen-Ei et al. and Akagi, either in combination or individually, do not teach or suggest a semiconductor laser device including all the limitations recited in claims 9 and 11. Applicant, therefore, respectfully solicits withdrawal of the rejection of claims 9 and 11 under 35 U.S.C. §103(a), and favorable consideration thereof.

IV. Conclusion

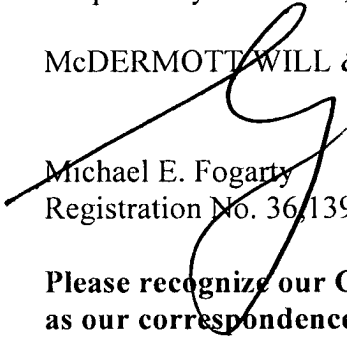
It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Amendments to the Drawings

The attached sheet of drawings includes a change to Fig. 8. This sheet replaces the original sheet including Fig. 8. In this Amendment, the legend "Prior Art" is added to Fig. 8.

Attachment: Replacement Sheet